

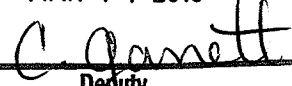
CE

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**FILED**  
YOLO SUPERIOR COURT

MAR 11 2010

By

  
Deputy

5 THOMAS A. PURTELL (SBN 26606)  
6 Attorney at Law  
7 430 Third Street  
8 Woodland, CA 95695  
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11 Attorneys for Defendant, Marco Antonio Topete

12 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 IN AND FOR THE COUNTY OF YOLO

14 THE PEOPLE OF THE STATE  
15 OF CALIFORNIA,

Case No. CRF 08-3355

16 Plaintiff,

DECLARATION RE:  
MARCH 5, 2010 ORDER

17 vs.

18 MARCO ANTONIO TOPETE,

19 Defendant.  
20 \_\_\_\_\_/

21 Thomas A. Purtell declares as follows:

22 1. I am co-counsel with Hayes Gable, III for defendant Marco Topete  
23 in the above-entitled case.

1           2. On March 5, 2010, the court ordered the parties to meet and  
2 confer regarding any and all motions each party expects to file, including  
3 motions in limine.

4           3. The court further ordered that, by noon on Thursday, March 11,  
5 2010, the parties shall submit a joint statement on all such motions,  
6 proposed dates by which the parties propose to file such motions, proposed  
7 dates by which oppositions and replies shall be filed, and dates for hearings  
8 thereon.

9           4. The defense became aware of this order on March 7, 2010.

10           5. Lead counsel for the defendant, Hayes Gable, III, has been, and  
11 is, co-counsel for the defense in a capital case ongoing in the County of  
12 Sacramento before the Honorable Michael W. Sweet. The defendant in that  
13 matter is Aaron Norman Dunn.

14           6. Mr. Gable was involved in the final selection of jurors in the Dunn  
15 case on March 8, 2010 as well as preparation for opening statements and  
16 the start of testimony in that case. This preparation involved the evening  
17 hours of March 8, 2010.

18           7. Opening statements in the Dunn case have concluded and  
19 testimony has commenced. These events occupied Mr. Gable's time on  
20 March 9, 2010. Evening hours on that day were spent in preparation for  
21 testimony on March 10, 2010 and such activity is scheduled to take place  
22 through noon on March 11, 2010.

1           8. As a result, it has proven to be impossible for the defense in the  
2 instant case to comply with the order of March 5, 2010.

3           9. The defense will, on April 5, 2010, file a motion to continue the  
4 present trial date of May 17, 2010.

5           I declare under penalty of perjury under the laws of the State of  
6 California that the foregoing is true and correct.

7  
8           Executed this 10<sup>th</sup> day of March, 2010, at Woodland, California.

9  
10           

11           THOMAS A. PURTELL  
12           Attorney for Defendant,  
13           Marco Antonio Topete

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I served copies of the following documents as follows:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: March 11, 2010

  
THOMAS A. PURTELL